

MINUTES

ALCOHOL AND TOBACCO COMMISSION

DECEMBER 17, 2002

CALL TO ORDER/NOTING OF QUORUM

Chairperson DePrez called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Glass and Commissioner Davis. Also in attendance were Superintendent Davis, Industry Liaison Okey and Executive Secretary Steiner.

Ronna Chappell of ILBA, John Barnett of Kroger, and Mark Shublak of Ice Miller were present as observers.

COMMUNICATIONS FROM THE FLOOR

No Communications From the Floor.

DISPOSITION OF MINUTES

Vice Chairperson Glass moved to approve the minutes that were submitted for the December 3, 2002 meeting. Motion seconded by Commissioner Davis and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

Vice Chairperson Glass moved to approve the PAD forms that were submitted for the December 17, 2002 meeting. Motion seconded by Commissioner Davis and it was unanimously approved.

RR45-97330 JAMES W. LURTZ – Hearing Judge Steiner stated this was a recommended denial by the Lake County Local Board and an upholding of that recommendation by the ATC. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairperson Glass moved to uphold the Hearing Judge's recommendation to overturn the denial and approve the permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RR45-06425 FRANKLIN D. BANKS – Hearing Judge Steiner stated this was a recommended denial of a new Sunday sales application by the Lake County Local Board and an upholding of that recommendation by the ATC. The permittee filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Davis moved to uphold the Hearing Judge's recommendation to reverse the denial and approve the new Sunday sales permit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

RR49-12296 POWER PROMOTIONS, LLC – Hearing Judge Steiner stated this was a recommended approval of a transfer of ownership by the Marion County Local Board and an upholding of that approval by the ATC. The remonstrators filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Davis moved to uphold the Hearing Judge's recommendation to approve the transfer. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPEAL OF HEARING JUDGE'S RECOMMENDATIONS

No Appeals of Hearing Judge's Recommendations.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Davis and it was unanimously approved.

Four hundred forty-six (446) renewals approved, sixty-four (64) new and/or transfer permits approved, fifteen (15) permits conditionally approved, eleven (11) permits approved for first year escrow, fifteen (15) permits approved for second year escrow and one (1) permit approved for third year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairperson Glass moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Davis and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR40-20139 & RR40-20140 MEXICAN VIEJO, LLC – Vice Chairperson Glass stated this applicant is requesting permission to file for a type 103 permit and a type 210-1 permit simultaneously.

Vice Chairperson Glass moved to approve this request. Motion seconded by Commissioner Davis and it was unanimously approved.

DL29-03413 ZION, INC. – Vice Chairperson Glass noted this is a type 217 transfer of location application with the local board voting three (3) to zero (0) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the transfer. Motion seconded by Commissioner Davis and it was unanimously approved.

RR49-11197 KRT RACE, INC. – Vice Chairperson Glass noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the renewal. Motion seconded by Commissioner Davis and it was unanimously approved.

DL75-20067 LYMAN RAPER – Vice Chairperson Glass noted this is a new type 116 application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RR45-96029 MIGHTY MIX, INC. – Vice Chairperson Glass noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the renewal. Motion seconded by Commissioner Davis and it was unanimously approved.

INACTIVE FILES

Vice Chairperson Glass stated Commissioner Marks reviewed nineteen (19) permit files. Vice Chairperson Glass moved to make nineteen (19) permits inactive. Fifteen (15) permits were not subject to auction and four (4) permit were subject to auction. Motion seconded by Commissioner Davis and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

RR49-11197 KRT RACE, INC. – Appeal filed.

OLD BUSINESS

No Old Business.

NEW BUSINESS

A TASTE OF THE CHAMBER – Carmel Clay Chamber of Commerce would like to serve donated alcoholic beverages at “A Taste of the Chamber”.

AMERICAN HEART ASSOCIATION TASTE OF SOUTHERN INDIANA - The American Heart Association would like to serve donated alcoholic beverages at their 23rd annual Taste of Southern Indiana.

LAD WINE TASTING PARTY – LAD would like to serve donated alcoholic beverages at their Wine Tasting Party.

Commissioner Davis moved to approve these requests. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

DANIEL M. STEINER – Chairperson DePrez stated that Daniel Steiner would be leaving the Commission on December 31, 2002. She thanked him for his many years of service to the Commission and wished him well in his new position.

APPROVAL OF MARK WEBB – Chairperson DePrez moved to approve the appointment of the new Executive Secretary/Hearing Judge of the Commission, Mark Webb. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

Mark will begin on January 6, 2003.

POLICY DETERMINATIONS

No Policy Determinations.

UNDER ADVISEMENT

RR58-04551 PM LOUNGE, INC. – Hearing Judge Steiner stated that this was a recommended denial by the Ohio County Local Board and an upholding of that recommendation by the Commission. He stated that it appears that the vote by the local board was based on information that has been found to be incomplete or inaccurate, so Mr. Steiner recommended the Commission remand this to the local board for their reconsideration.

Also, Chairperson DePrez stated that there was an Excise officer at the local board hearing to testify, along with an officer from another police agency in Ohio County. The Excise officer was not notified of the appeal hearing and the other police officer appeared and felt singled out. The Chairperson stated that it is necessary for our Excise officers to be notified about appeal hearings where they have been part of the investigation.

Chairperson DePrez apologized for any oversight by the Commission concerning this matter and the notification. The Commission would not want anything to hamper any future dealings we may have in Ohio County.

Commissioner Davis moved to remand this to the local board for reconsideration. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

ANNOUNCEMENTS

No announcements.

ADJOURNMENT

Vice Chairperson Glass moved to adjourn the meeting. Motion seconded by Commissioner Davis and it was unanimously approved.

Approved this _____ day of _____, 2003.

MARY DEPREZ, CHAIRPERSON

BARBARA L. GLASS, VICE CHAIRPERSON

JAMES DAVIS, COMMISSIONER

GIGI M. MARKS, COMMISSIONER